IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF SOUTH CAROLINA ANDERSON/GREENWOOD DIVISION

Carlos Valdivia Nuno, #98757-179, a/k/a Carlos Nuno Valdivia,)	Civil Action No.: 8:09-2765-RBH-BHH
Plaintiff,))	REPORT AND RECOMMENDATION OF MAGISTRATE JUDGE
vs.	
Warden Mary Mitchell, FCI Edgefield;) Assistant Warden Oscar Acosta, FCI) Edgefield,)	
) Defendants.)	

The plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On March 19, 2010, the defendants filed a motion to dismiss or, in the alternative, motion for summary judgment. On March 23, 2010, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the plaintiff was advised of the summary dismissal procedure and the possible consequences if he failed to respond adequately. Despite this explanation, the plaintiff did not respond to the motion.

As the plaintiff is proceeding *pro se*, the court filed a second order on April 29, 2010, giving the plaintiff through May 21, 2010, to file his response to the motion to dismiss or, in the alternative, motion for summary judgment. The plaintiff was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. The plaintiff did not respond.

Based on the foregoing, it appears the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed with prejudice for lack of prosecution and for failure to comply with this Court's orders, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp*.

v. Lopez, 669 F.2d 919, 920 (4th Cir.1982). See Ballard v. Carlson, 882 F.2d 93 (4th Cir.		
1989).		
	s/Bruce H. Hendricks United States Magistrate Judge	
May 27, 2010		
Greenville, South Carolina		